

## REMARKS

Claims 1-21 were examined and rejected. Claims 1, 3, 5, 19, and 21 have been amended and no claims have been canceled. Applicant asserts that no new matter is added herein as the amendments to the claims are supported by **Figures 1-3** and paragraphs 12, 15-17, 20-21, and 23 of the application as originally filed. Specifically, amendments to claim 1 are supported by **Figures 1 and 6**; and paragraphs 12 and 15 of the application as originally filed which show and describe that the neck portion and magnetic strips attached thereto extending along at least the bottom two of the cervical vertebrae of the horse. Applicant respectfully requests reconsideration of claims 1-21, as amended, in view of at least the following remarks.

### **I. Claims Rejected Under 35 U.S.C. § 103**

The Patent Office rejects claims 1-14 and 16-21 under 35 U.S.C. § 103(a) as being patentable over U.S. Patent No. 5,984,855 to DiNapoli (DiNapoli) in view of U.S. Patent No. 4,214,421 to Battle et al. (Battle). To render a claim obvious, all elements of that claim must be taught or suggested by at least one properly combined reference.

Applicant respectfully disagrees with the rejection above and submits that independent claim 1, as amended, is patentable over the cited references for at least the first reason that the cited references do not teach or suggest “a neck portion coupled to the head portion, the neck portion defining a perimeter to run substantially along at least a bottom two of an equine’s neck vertebrae (C6 and C7) and a volume substantially conforming to an equine neck; and at least one magnetic strip coupled to the neck portion,” as required by claim 1. According to claim 1, for example, the apparatus may include a magnetic strip coupled to a neck portion that extends downward from the head portion and defines a perimeter along at least the bottom two (C6 and C7) of an equine’s neck vertebrae.

DiNapoli describes a magnetic blanket for covering the body of a horse (see Abstract). Neck portion 12, straps 34, 34’, 36, 36’, 14, 16, 18, and 20; neck bands 30, 30’, 32, and 32’ of the blanket are taught as existing on a part of a blanket that closes around a horse’s shoulders, withers, and chest area (e.g., without attachment to a hood and, thus, supported by the slope of the shoulder), but are not taught as extending above the horse chest or shoulder area (see col. 3, lines 10-38; and Figures 1 and 3). Thus, front end 12 closes around the horse’s shoulder, withers, and chest area, but does not define a perimeter to run along at least the bottom two (C6 and C7) of an equine’s neck vertebrae. Instead, the front end 12, at best, suggests a perimeter to run along the very bottom

of an equine's neck where the scapula, thoracic vertebra, and shoulder joints are, but where no neck vertebrae are (see Figure 3).

Likewise, DiNapoli does not show, describe, or suggest front end 12 of the blanket coupled or attached to a head portion having a shape conforming to an equine head. Consequently, the Patent Office has not identified and Applicant is unable to find any teaching or suggestion in DiNapoli of the two pointed out limitations of amended claim 1.

Battle teaches a horse blanket and hood apparatus where the head extends over the head and neck portions of the horse (see Figure 1 and col. 3, lines 16-26). Specifically, Battle teaches a blanket having improved strap and strap closure abilities to connect to a hood so that the horse will show well and the blanket and hood will be maintained on the horse in a fixed position (see col. 1, lines 6-11; and col. 2, lines 18-28). However, Battle does not show, describe, or suggest a magnetic strip, material to couple to a magnetic strip, magnetic treatment or any other type of therapeutic treatment of a horse.

Consequently, the Patent Office has not identified and Applicant is unable to find any teaching or suggestion in Battle of a magnetic strip coupled to a neck portion that is coupled to the head portion and defines a perimeter to run along at least the bottom two (C6 and C7) of an equine's neck vertebrae, as required by amended claim 1.

Thus, neither DiNapoli, Battle, nor the combination teaches or suggests a magnetic strip coupled to a neck portion that is coupled to the head portion and defines a perimeter to run along at least the bottom two (C6 and C7) of an equine's neck vertebrae, as required by amended claim 1. Hence, for at least this first reason, Applicant respectfully requests that the Patent Office withdraw the above rejection of independent claim 1.

Moreover, Applicant respectfully disagrees with the rejection above and submits that independent claim 1, as amended, is patentable over the cited references for at least the second reason that no motivation or suggestion exists to combine DiNapoli and Battle. For example, there is no motivation or suggestion in DiNapoli to combine DiNapoli and Battle. Specifically, there is no motivation to combine with or extend the hook and pile type fasten material and front end 12 up the neck of a horse to couple to a head portion because DiNapoli describes that neckbands 30 and 30 are not on, over, or at the neck area, but at a position away from the neck area from front end 12 (see column 3 lines 34-36 and column 4 lines 33-37).

Similarly, there is no motivation or suggestion in Battle to combine DiNapoli and Battle. Battle teaches a comfortable blanket that is light weight, easy to attach and remove, will stay fixed on

the horse, be unaffected by kicking and biting, and will prevent a horse from growing a winter coat (see column 1 lines 6-11, column 2 lines 14-56). Thus, there is no motivation or suggestion in Battle to combine the light weight, comfortable, easy to use, fixed and unaffected blanket of Battle with a material to couple to magnetic strips (e.g., a heavier, uncomfortable material such as hook and pile type fasten material) and with magnetic strips (heavier, uncomfortable, not easy to use, affected by bites and kicks). Hence, for at least this second reason, Applicant respectfully request that the Patent Office withdraw the rejection above of independent claim 1.

Furthermore, Applicant respectfully disagrees with the rejection above and submits that independent claim 1, as amended, is patentable over the cited references for at least the third reason that the combination of DiNapoli and Battle is improper. DiNapoli teaches a magnetic blanket for equine therapy that uses hook and pile (“Velcro”) fasteners, snaps, buckles, clips, and the like; flexible magnetic bands contained in wick material, where each band has 3-20 ceramic magnets to treat soreness and stiffness of a horse’s muscles (see col. 3, lines 18-21, lines 35-39; col. 4, lines 4-7, and lines 34-46). Thus, DiNapoli teaches a blanket having 20 flexible magnetic bands attached to the outside of a magnetic blanket using hook and pile type fasteners, where each magnetic band may include up to 20 magnets for a total of 276 magnets (see col. 3, lines 28-33, 50-52; and col. 4, lines 23-25). It should be appreciated by the Patent Office that a blanket having 20 flexible magnetic bands attached to it with Velcro will make a visual impact on an observer of a horse wearing the blanket and a comfort impact on the horse, will be difficult to use. For example, such a blanket will not appear to be very appealing, smooth, or contoured to the horse; and may not be very comfortable to the horse.

On the other hand, Battle teaches a blanket for showing horses, such as a blanket that is comfortable to the horse, is smoothly contoured, and provides a desirable appearance (see col. 1, lines 6-11; col. 3, lines 63-66; and col. 6, lines 41-46). As noted above, Battle teaches a comfortable blanket that is light weight, easy to attach and remove, will stay fixed on the horse, be unaffected by kicking and biting, and will prevent a horse from growing a winter coat (see column 1 lines 6-11, column 2 lines 14-56).

Thus, presuming that the flexible magnetic bands of DiNapoli could be attached to the blanket of Battle (a proposition which Applicant does not agree with as explained below), attaching the magnetic band of DiNapoli to Battle would defeat the primary purpose of Battle which is to provide a blanket having an appealing, desirable, and smooth appearance for showing a horse, because the magnetic bands of DiNapoli would not be appealing, smooth, appealing in appearance, or comfortable to the horse (see MPEP § 2145.XD). Similarly, use of the blanket of Battle with the hook and pile magnetic bands of DiNapoli would render DiNapoli unsatisfactory for its intended

purpose of attaching the magnetic bands to the blanket because the hook and pile material of the magnetic bands would not attach to the nylon (ANTRON) shell (see col. 3, line 66 through col. 4, line 3) of Battle (see MPEP § 2145.XD). Hence, for at least this third reason, Applicant respectfully request that the Patent Office withdraw the rejection above of independent claim 1.

Applicant submits that dependent claims 2-14 and 16-18, being dependent upon allowable base claim 1, as amended, are patentable over the cited references for the reasons explained above. Thus, Applicant respectfully requests that the Patent Office withdraw the rejection of dependent claims 2-14 and 16-18 under 35 U.S.C. § 103(a) as being unpatentable over DiNapoli in view of Battle.

In addition, Applicant disagrees with the above rejection of independent claim 19, as amended, for at least the reason that the cited references do not teach or suggest “a neck portion having a neck portion distal and coupled to the head portion, the neck portion defining a volume substantially conforming to an equine neck; and at least one magnetic material strip detachably coupled to the neck portion at a position to be parallel to and along a longitudinal axis of a plurality of an equine’s neck vertebrae,” as required by amended claim 19. The arguments with respect to amended claim 1 above apply here as well.

Specifically Applicant points out that that in DiNapoli front end 12 closes around the horse’s neck, the shoulder, the withers, and the chest area, it does not suggest at least one magnetic material strip detachably coupled to the neck portion at a position to be parallel to and along a longitudinal axis of a plurality of an equine’s neck vertebrae, as required by amended claim 19. Instead, the front end 12, at best, suggests a perimeter to run along the very bottom of an equine’s neck where the scapula, thoracic vertebra, and shoulder joints are, but where no neck vertebrae are (see Figure 3).

Battle does not show, describe, or suggest a magnetic strip, material to couple to a magnetic strip, magnetic treatment or any other type of therapeutic treatment of a horse. Consequently, the Patent Office has not identified and Applicant is unable to find any teaching or suggestion in Battle of at least one magnetic material strip detachably coupled to the neck portion at a position to be parallel to and along a longitudinal axis of a plurality of an equine’s neck vertebrae, as required by amended claim 19.

Thus, neither DiNapoli, Battle, nor the combination teaches or suggests at least one magnetic material strip detachably coupled to the neck portion at a position to be parallel to and along a longitudinal axis of a plurality of an equine’s neck vertebrae, as required by amended claim

19. Hence, for at least this first reason, Applicant respectfully requests that the Patent Office withdraw the above rejection of independent claim 19.

In addition, Applicant respectfully requests that the Patent Office withdraw the above rejection of independent claim 19, for at least the second and third reasons cited above for claim 1.

Applicant submits that dependent claim 20, being dependent upon allowable base claim 19, as amended, is patentable over the cited references for the reasons explained above. Thus, Applicant respectfully requests that the Patent Office withdraw the rejection of dependent claim 20 under 35 U.S.C. § 103(a) as being unpatentable over DiNapoli in view of Battle.

Finally, Applicant disagrees with the above rejection of independent claim 21, and submits that independent claim 21, as amended, is patentable over the cited references because the cited references do not teach or suggest “a neck portion coupled to the head portion, the neck portion encompassing a horse’s entire cervical vertebrae and defining a volume substantially conforming to an equine neck; and two magnetic strips each approximately 25.5” by 5” detachably coupled to the neck portion,” as required by amended independent claim 21. The arguments above with respect to amended claim 21 apply here as well.

Specifically, Applicant points out that that in DiNapoli front end 12 closes around the horse’s neck, the shoulder, the withers, and the chest area, it does not suggest a neck portion encompassing a horse’s entire cervical vertebrae, as required by amended claim 21. Instead, the front end 12, at best, suggests a perimeter to run along the very bottom of an equine’s neck where the scapula, thoracic vertebra, and shoulder joints are, but where no cervical vertebrae are (see Figure 3).

Battle does not show, describe, or suggest a magnetic strip, material to couple to a magnetic strip, magnetic treatment or any other type of therapeutic treatment of a horse. Consequently, the Patent Office has not identified and Applicant is unable to find any teaching or suggestion in Battle of a magnetic strip coupled to a neck portion encompassing a horse’s entire cervical vertebrae, as required by amended claim 21.

Thus, neither DiNapoli, Battle, nor the combination teaches or suggests a magnetic strip coupled to a neck portion encompassing a horse’s entire cervical vertebrae, as required by amended claim 21. Hence, for at least this first reason, Applicant respectfully requests that the Patent Office withdraw the above rejection of independent claim 21.

In addition, Applicant respectfully requests that the Patent Office withdraw the above rejection of independent claim 21, for at least the second and third reasons cited above for claim 1.

The Patent Office rejects claim 15 under 35 U.S.C. § 103 as being unpatentable over DiNapoli as modified by Battle as applied to claim 1 above, and further in view of JP 2000342699 (herein '699). Adding '699 does not cure the shortcomings of DiNapoli and Battle with respect to the argument above for amended claim 1. Thus, Applicant submits that dependent claim 15, being dependent upon allowable base claim 1, as amended, is patentable over the cited references for the reasons explained above. Thus, Applicant respectfully requests that the Patent Office withdraw the rejection of dependent claim 15 under 35 U.S.C. § 103(a) as being unpatentable over DiNapoli in view of Battle.

### CONCLUSION

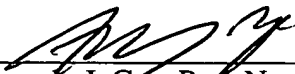
In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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Dated: January 13, 2005

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I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

 1/13/05  
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